

# STATUTORY REQUIREMENTS BEFORE COMMENCING JUDICIAL SERVICE FOR ELECTED OR APPOINTED JUDGES

The following is a step-by-step guide that summarizes the statutory requirements an elected or appointed judge must address before commencing judicial service. Please consult the cited statutes for additional information.

## STEP 1: REQUIRED DOCUMENTATION

The Ohio Revised Code directs the preparation of two documents relative to your election or appointment to judicial office: (1) a certificate of election or appointment and (2) a Governor's commission. You must have both the certificate and commission before you may take the oath of office and begin performing judicial duties.<sup>1</sup>

### CERTIFICATE OF ELECTION OR APPOINTMENT

Following your election or appointment as judge, a certificate of election or appointment, as applicable, is issued by one of the following entities:<sup>2</sup>

- For a Supreme Court justice, the Secretary of State;
- For an appellate judge whose district consists of more than one county, the county board of elections of the most populous county in the district;
- For all other judges, the county board of elections.

After the certificate of election or appointment is issued, the board of elections forwards the certificate to the Secretary of State.<sup>3</sup>

### GOVERNOR'S COMMISSION

Once the Secretary of State receives the certificate of election or appointment, a commission for the Governor's signature is prepared. The Secretary of State then transmits the signed Governor's commission to the clerk of the court of common pleas of the county in which you reside. Upon receipt of the commission, the clerk transmits the commission to you.<sup>4</sup>

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<sup>1</sup> R.C. 107.05.

<sup>2</sup> R.C. 3505.35, 3505.36, and 3505.38.

<sup>3</sup> R.C. 107.07.

<sup>4</sup> R.C. 107.07, and 2701.06.

An exception to this procedure is if you are an appointed judge who chooses to travel to Columbus to personally receive your Governor’s commission from the Governor’s Office. In this event, after receiving the Governor’s commission, you will take the commission to the Secretary of State, who will ask you to sign a waiver relieving the Secretary of State from the requirement to transmit the commission to the court of common pleas of the county in which you reside.

## **STEP 2: OATH OF OFFICE**

Once you receive the Governor’s commission, you may take the oath of office. You must take the oath of office upon the commencement of each term of office. If you have conscientious scruples against taking an oath, you may make an affirmation, which has the same effect as an oath.<sup>5</sup> The Ohio Revised Code specifies the form of the oath, when the oath of office must be taken, and who may administer the oath.

### **FORM OF OATH**

The form of the oath of office is prescribed by law.<sup>6</sup> The attached example, which you may use, contains the prescribed language. Additionally, an electronic version is available on the following website:

[www.supremecourt.ohio.gov/docs/Judiciary/candidates/oath.pdf](http://www.supremecourt.ohio.gov/docs/Judiciary/candidates/oath.pdf)

### **WHEN OATH MUST BE TAKEN**

You must take the oath of office on or before the first day of your official term of office.<sup>7</sup> However, when that first day begins may vary as follows:

- If you are a judge who has been appointed to complete the balance of a term of office, the first day of your official term is the date on which you will assume office, which is reflected on your Governor’s commission;
- If you are a judge who has been elected to complete the balance of a term of office, the first day of your official term is when you are elected and qualified, which is the date upon which the following have been completed: you have been elected, received your Governor’s commission, taken the oath of office, and, if applicable, paid a bond;<sup>8</sup>
- If you are a judge elected to a full term of office, the first day of your official term is the date specified in the Ohio Revised Code.

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<sup>5</sup> R.C. 3.20.

<sup>6</sup> R.C. 3.23.

<sup>7</sup> R.C. 3.23.

<sup>8</sup> Art. IV, Sec. 13 of the Ohio Constitution. See also *State v. Neibling*, 6 Ohio St. 40, 44 (1856).

Finally, a Supreme Court justice must appear before the Supreme Court, or a justice of the Supreme Court if the Court is not in session, and take the oath of office on or prior to the first day of the justice's official term. The taking of the oath must be entered on the Supreme Court's journal.<sup>9</sup>

## WHO MAY ADMINISTER OATH

For a Supreme Court justice, another member of the Supreme Court must administer the oath of office.<sup>10</sup> For a trial or appellate court judge, the following persons may administer the oath of office:

- A person holding state or local elective office in Ohio, including a municipal or county court judge and a clerk of a court of common pleas, *but only to a person elected or appointed within the same geographical constituency*.<sup>11</sup> Before having such an elected official administer your oath, check to ensure that the geographic jurisdiction of your court is either the same as or entirely encompassed within the geographic jurisdiction of the elected official administering the oath. If an elected official has a geographic jurisdiction that is smaller than that of your court, the elected official does not have the authority to administer your oath.<sup>12</sup>
- A Supreme Court justice, court of appeals judge, or common pleas judge, anywhere in Ohio;<sup>13</sup>
- A member of the General Assembly, anywhere in Ohio;<sup>14</sup>
- An Ohio notary public, anywhere in Ohio.<sup>15</sup> Please note, it is a common, but erroneous, belief that all Ohio attorneys are *automatically* notaries public. In actuality, an Ohio attorney must apply for and receive a notary

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<sup>9</sup> R.C. 2701.05.

<sup>10</sup> R.C. 2701.05.

<sup>11</sup> R.C. 3.24. Note, a retired judge may only administer the oath if the retired judge is currently serving on assignment by the Chief Justice as a municipal or county court judge pursuant to Art. IV, Sec. 6(C) of the Ohio Constitution.

<sup>12</sup> For example, a judge of a municipal court that does not have county-wide jurisdiction would not have the authority to administer the oath of office to a court of common pleas judge. This is because the geographic jurisdiction of that municipal court encompasses only a portion, but not all, of the court of common pleas' county-wide jurisdiction.

<sup>13</sup> R.C. 3.24. Note, a retired judge may only administer the oath if the retired judge is currently serving on assignment by the Chief Justice as a Supreme Court justice or a court of appeals or common pleas judge pursuant to Art. IV, Sec. 6(C) of the Ohio Constitution.

<sup>14</sup> R.C. 3.24.

<sup>15</sup> R.C. 3.24 and 147.07.

public commission from the Secretary of State.<sup>16</sup> To determine if an attorney or any other individual is in fact a notary public, please visit: [www.sos.state.oh.us/notary/search-notaries/](http://www.sos.state.oh.us/notary/search-notaries/)

- A municipal court clerk.<sup>17</sup>

## CERTIFICATION AND FILING OF OATH

The oath of office must include a certification from the person administering the oath containing all the information set forth in the attached example. If you are an appointed judge who must run in the upcoming election in order to retain the seat, it is recommended you record your ending date as “Until a successor is elected and has qualified.”<sup>18</sup>

You must transmit the oath and certification to both of the following offices within 20 days after the first day of your official term of office:<sup>19</sup>

- The original to the clerk of the court to which you have been elected or appointed. For multi-county appellate courts, it is recommended the oath be filed with each county clerk in the jurisdiction of the appellate court.
- A copy mailed to the Office of Chief Legal Counsel of the Supreme Court of Ohio, 65 South Front Street, 7<sup>th</sup> Floor, Columbus, Ohio 43215 or emailed to [legpol@sc.ohio.gov](mailto:legpol@sc.ohio.gov).

Additionally, if you are an appointed judge, the Governor’s Office asks that you mail a copy of the oath and certification to the Governor’s Office, Attn: Boards and Commissions, 77 South High Street, 30<sup>th</sup> Floor, Columbus, Ohio 43215.

## STEP 3: BONDS

Only the following judges are required to post a bond prior to entering into judicial office. The bond is to be deposited in the county treasurer’s office.

- **A judge of the probate division of the court of common pleas.** The judge is required to post a bond to the state of at least \$5,000.00 and deposit the bond with the oath of office;<sup>20</sup>

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<sup>16</sup> R.C. 147.01.

<sup>17</sup> R.C. 1901.31. The Ohio Revised Code does not indicate if there is any territorial / geographical limitation.

<sup>18</sup> Pursuant to Art. IV, Sec. 13 of the Ohio Constitution, when a vacancy in the office of a judge occurs early enough in the term of that judgeship to require an election to permanently fill the vacancy, the appointed judge will temporarily fill the vacancy “until a successor is elected and has qualified[.]”

<sup>19</sup> R.C. 3.23.

<sup>20</sup> R.C. 2101.03

- **A judge of the juvenile division of the court of common pleas acting as clerk of the juvenile division.** The judge is required to give a bond in an amount determined by the board of county commissioners;<sup>21</sup>
- **A judge of the juvenile division of the Cuyahoga County Court of Common Pleas.** The judge is required to give a bond of at least \$5,000.00.<sup>22</sup>

The Ohio Revised Code permits political subdivisions to adopt a policy allowing for the use of a “Dishonesty and Faithful Performance of Duty” insurance policy for officers, employees, and appointees as an alternative to a traditional bond.<sup>23</sup> As a result, those judges required to post a bond should contact their county treasurer’s office to determine if the county has adopted such a policy.

If you have questions, please contact:

Office of the Chief Legal Counsel  
Supreme Court of Ohio  
614.387.9510  
[legpol@sc.ohio.gov](mailto:legpol@sc.ohio.gov)

Rev. 07/2022

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<sup>21</sup> R.C. 2151.12

<sup>22</sup> R.C. 2153.10

<sup>23</sup> R.C. 3.061

**JUDICIAL OATH OF OFFICE**

(Pursuant to R.C. 3.23)

I, \_\_\_\_\_  
(insert name)  
do solemnly swear (or affirm)  
that I will support the Constitution of the United States  
and the Constitution of Ohio,  
will administer justice without respect to persons,  
and will faithfully and impartially  
discharge and perform all the duties incumbent upon me  
as \_\_\_\_\_,  
(insert name of judicial office)  
according to the best of my ability and understanding.

(This I do as I shall answer unto God.)

\_\_\_\_\_  
Judge's Signature

**CERTIFICATION**

I, \_\_\_\_\_, administered the foregoing  
Judicial Oath of Office to Judge \_\_\_\_\_, of the  
\_\_\_\_\_, for a term of office beginning,  
\_\_\_\_\_, \_\_\_\_\_, and ending \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title (include name of court or office, if applicable)

\_\_\_\_\_  
Date